97TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 97-510

AIRPORT AND AIRWAY REVENUE ACT OF 1982

MAY 12, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

with

ADDITIONAL AND SEPARATE VIEWS

[To accompany H.R. 4800]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4800) to reinstate certain taxes imposed on aviation, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE II—AIRPORT AND AIRWAY REVENUE ACT OF 1982

SEC. 201. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This title may be cited as the "Airport and Airway Revenue Act of 1982".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. TAX ON FUEL USED IN NONCOMMERCIAL AVIATION.

(a) INCREASE IN TAX.—

(1) Paragraph (1) of section 4041(c) (relating to imposition of tax on fuel for noncommercial aviation) is amended by striking out "7 cents" and inserting in lieu thereof "12 cents".

(2) Paragraph (3) of section 4041(c) (relating to rate of tax on gasoline for noncommercial aviation) is amended by striking out "3 cents" and inserting in lieu thereof "8 cents".

(b) REINSTATEMENT.—Paragraph (5) of section 4041(c) (relating to termination of tax on fuel for noncommercial aviation) is mended to read as follows:

"(5) PERIOD DURING WHICH TAXES APPLY.—The taxes imposed by paragraphs (1) and (2) shall apply on and after July 1, 1982, and before January 1, 1984."

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(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1982.

SEC. 203. TAX ON TRANSPORTATION BY AIR.

(a) TRANSPORTATION OF PERSONS.—Subsections (a) and (b) of section 4261 (relating to tax on transportation of persons by air) are each amended by striking out "8 percent" and inserting in lieu thereof "5 percent".

(b) USE OF INTERNATIONAL TRAVEL FACILITIES.—

(1) INCREASE IN AMOUNT OF TAX.—Subsection (c) of section 4261 (relating to use of international travel facilities) is amended by striking out "$3" and inserting in lieu thereof "$5".

(2) REINSTATEMENT.—Subsection (e) of section 4261 (relating to reduction, etc., of rates) is amended to read as follows:

"(e) PERIOD DURING WHICH TAX IMPOSED BY SUBSECTION (c) APPLIES.—The tax imposed by subsection (c) shall apply with respect to transportation beginning after June 30, 1982, and before January 1, 1984."

(c) REINSTATEMENT OF TAX ON TRANSPORTATION OF PROPERTY BY AIR.—Subsection (d) of section 4271 (relating to termination) is amended to read as follows:

"(d) PERIOD DURING WHICH TAX APPLIES.—The tax imposed by subsection (a) shall apply with respect to transportation beginning after June 30, 1982, and before January 1, 1984."

(d) TECHNICAL MODIFICATIONS.—

(1) LONGER LAYOVER PERMITTED TO QUALIFY AS UNINTERRUPTED INTERNATIONAL AIR TRANSPORTATION.—Paragraph (3) of section 4262(c) (defining uninterrupted international air transportation) is amended by striking out "6 hours" each place it appears and inserting in lieu thereof "12 hours".

(2) AUTHORITY TO WAIVE 225-MILE ZONE PROVISIONS.—Section 4262 (defining taxable transportation) is amended by adding at the end thereof the following new subsection:

"(e) AUTHORITY TO WAIVE 225-MILE ZONE PROVISIONS.—

"(1) IN GENERAL.—If the Secretary of the Treasury determines that Canada or Mexico has entered into a qualified agreement—

"(A) the Secretary shall publish a notice of such determination in the Federal Register, and

"(B) effective with respect to transportation beginning after the date specified in such notice, to the extent provided in the agreement the term '225-mile zone' shall not include part or all of the country with respect to which such determination is made.

"(2) TERMINATION OF WAIVER.—If a determination was made under paragraph (1) with respect to any country and the Secretary of the Treasury subsequently determines that the agreement is no longer in effect or that the agreement is no longer a qualified agreement—

"(A) the Secretary shall publish a notice of such determination in the Federal Register, and

"(B) subparagraph (B) of paragraph (1) shall cease to apply with respect to transportation beginning after the date specified in such notice.

"(3) QUALIFIED AGREEMENT.—For purposes of this subsection, the term 'qualified agreement' means an agreement between the United States and Canada or Mexico (as the case may be)—

"(A) setting forth that portion of the country which is not to be treated as within the 225-mile zone, and

"(B) providing that the tax imposed by such country on transportation described in subparagraph (A) will be at a level which the Secretary of the Treasury determines to be appropriate.

"(4) REQUIREMENT THAT AGREEMENT BE SUBMITTED TO CONGRESS.—No notice may be published under paragraph (1)(A) with respect to any qualified agreement before the date 90 days after the date on which a copy of such agreement was furnished to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate."

(3) REPEAL OF CERTAIN TERMINATED TAXES.—

(A) IN GENERAL.—Subchapter E of chapter 36 is hereby repealed.

(B) TECHNICAL AND CONFORMING AMENDMENTS.—

(i) The table of subchapters for chapter 36 is amended by striking out the item relating to subchapter E.

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(ii) Section 4281 (relating to small aircraft on nonestablished lines) is amended—

(I) by striking out "(as defined in section 4492(b))", and

(II) by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'maximum certificated takeoff weight' means the maximum such weight contained in the type certificate or airworthiness certificate."

(iii) (I) Subsection (a) of section 6156 is amended by striking out "or 4491".

(II) Paragraph (2) of section 6156(e) is amended by striking out "In the case of the tax imposed by section 4481".

"(III) The section heading for section 6156 is amended by striking out "AND CIVIL AIRCRAFT".

(IV) The table of sections for subchapter A of chapter 62 is amended by striking out "and civil aircraft" in the item relating to section 6156.

(iv) (I) Section 6426 is hereby repealed.

(II) The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6426.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to transportation beginning after June 30, 1982.

SEC. 204. MANNER IN WHICH TAX ON TRANSPORTATION BY AIR IS REQUIRED TO BE SHOWN ON AIRLINE TICKETS.

(a) GENERAL RULE.—Subsection (a) of section 7275 (relating to penalty for offenses relating to certain airline tickets and advertising) is amended to read as follows:

"(a) TICKETS.—In the case of transportation by air all of which is taxable transportation (as defined in section 4262), the ticket for such transportation shall show the total of—

"(1) the amount paid for such transportation, and

"(2) the taxes imposed by subsections (a) and (b) of section 4261."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transportation beginning after the date of the enactment of this Act.

SEC. 205. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND.

(a) GENERAL RULE.—Subchapter A of chapter 98 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

"SEC. 9502. AIRPORT AND AIRWAY TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Airport and Airway Trust Fund,' consisting of such amounts as may be appropriated or credited to the Airport and Airway Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO AIRPORT AND AIRWAY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There is hereby appropriated to the Airport and Airway Trust Fund—

"(1) amounts equivalent to the taxes received in the Treasury after June 30, 1982, and before January 1, 1984, under subsections (c) and (d) of section 4041 (taxes in aviation fuel) and under sections 4261 and 4271 (taxes on transportation by air);

"(2) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after June 30, 1982, and before January 1, 1984, under section 4081, with respect to gasoline used in aircraft; and

"(3) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after June 30, 1982, and before January 1, 1984, under paragraphs (2) and (3) of section 4071(a), with respect to tires and tubes of the types used on aircraft.

("c) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated to the Airport and Airway Trust Fund such additional sums as may be required to make the expenditures referred to in subsection (d) of this section.

"(d) EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.—

"(1) AIRPORT AND AIRWAY PROGRAM.—Amounts in the Airport and Airway Trust Fund shall be available as provided by appropriation Acts, for

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making expenditures before October 1, 1983, to meet those obligations of the United States—

"(A) incurred under title I of the Airport and Airway Development Act of 1970 or of the Airport and Airway Development Act Amendments of 1976 or of the Aviation Safety and Noise Abatement Act of 1979 or under the Fiscal Year 1981 Airport Development Act (as such Acts were in effect on the date of enactment of the Fiscal Year 1981 Airport Development Authorization Act) or incurred under the provisions of the Airport and Airway Improvement Act of 1982 (as such provisions were contained in such legislation as reported by the House Committee on Public Works and Transportation);

"(B) heretofore or hereafter incurred under the Federal Aviation Act of 1958, as amended (49 U.S.C., 1301 et seq.), which are attributable to planning, research and development, construction, or operation and maintenance of—

"(i) air traffic control,

"(ii) air navigation,

"(iii) communications, or

"(iv) supporting services,

for the airway system; or

"(C) for those portions of the administrative expenses of the Department of Transportation which are attributable to activities described in subparagraph (A) or (B).

"(2) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN REFUNDS.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after June 30, 1982, and before January 1, 1984, in respect of fuel used in aircraft, under section 6420 (relating to amounts paid in respect of gasoline used on farms), 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes), or 6427 (relating to fuels not used for taxable purposes).

"(3) TRANSFERS FROM AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN SECTION 39 CREDITS.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the credits allowed under section 39 with respect to fuel used after June 30, 1982, and before January 1, 1984. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the credits allowed."

(b) REPEAL OF SECTION 208 OF THE AIRPORT AND AIRWAY REVENUE ACT OF 1970.—Section 208 of the Airport and Airway Revenue Act of 1970 is hereby repealed.

(c) Clerical Amendments.—

(1) The table of sections for subchapter A of chapter 98 is amended to read as follows:

"Sec. 9501. Black Lung Disability Trust Fund.
"Sec. 9502. Airport and Airway Trust Fund."

(2) The section heading for section 9501 (relating to establishment of Black Lung Disability Trust Fund) is amended to read as follows:

"SEC. 9501. BLACK LUNG DISABILITY TRUST FUND."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on July 1, 1982.

(2) SAVINGS PROVISIONS.—The Airport and Airway Trust Fund established by the amendments made by this section shall be treated for all purposes of law as the continuation of the Airport and Airway Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970. Any reference in any law to the Airport and Airway Trust Fund established by such section 208 shall be deemed to include a reference to the Airport and Airway Trust Fund established by the amendments made by this section.

SEC. 206. CERTAIN REIMBURSEMENTS MADE TO CUSTOMS SERVICE.

Effective on and after July 1, 1982, the first sentence of subsection (e) of section 53 of the Airport and Airway Development Act of 1970 shall not apply with respect to the compensation and expenses of customs officers and employees.

I. SUMMARY

As reported by the Committee on Ways and Means, H.R. 4800 extends and reinstates various aviation excise taxes, and transfers revenues from those taxes to the Airport and Airway Trust Fund, effective July 1, 1982, through December 31, 1983. Trust Fund revenues will be available for the purposes specified in H.R. 2643 (through fiscal year 1983), as reported by the House Committee on Public Works and Transportation. The Committee on Ways and Means intends to offer H.R. 4800, as amended, as a separate revenue title to H.R. 2643 on the House floor.

Aviation Tax Levels

Under H.R. 4800, the domestic air passenger ticket tax continues at its present 5-percent rate, and the air freight waybill tax is reinstated at its prior rate of 5 percent. The international departure tax is reinstated at an increased rate of $5 per person. The fuels tax for noncommercial (general) aviation is imposed at 12 cents per gallon for both gasoline and jet fuel and the aircraft tire and tube taxes continue as under present law. The prior law aircraft use tax is repealed for both commercial and general aviation. The air freight tax, the international departure tax, and the noncommercial aviation fuels tax will apply for the 18-month period, July 1, 1982, through December 31, 1983. After 1983, the aviation excise taxes will revert to present law rates, and the revenues will no longer go into the Airport and Airway Trust Fund.

Other Aviation Tax Modifications

The bill, as amended, includes three other modifications to the taxes on air passengers. These modifications are as follows:

(1) Effective July 1, 1982, the 6-hour layover rule will be increased to 12 hours for purposes of determining whether the flight will be treated as uninterrupted international travel subject only to the departure tax (i.e., not subject to the domestic ticket tax).

(2) The Secretary of the Treasury will be granted the authority to waive the 225-mile zone rule if Canada or Mexico enter into a "qualified agreement" regarding the tax to be applied to persons traveling by air between the United States and that country. The 225-mile zone subjects travel between the United States and Canada or Mexico to the domestic air passenger ticket tax where payment is made in the United States. The purpose of this provision is to allow the Treasury Department to negotiate a bilateral agreement with each country to eliminate double taxation of travel between the countries or within the 225-mile zone.

(3) The requirement that the ticket fare and tax be shown by trip segments is repealed, effective from the date of enactment of the bill. The requirement for separately showing the total airfare and total ticket tax is retained.

Extension of Trust Fund Provisions

The committee bill transfers the revenues from the aviation-related excise taxes to the Airport and Airway Trust Fund for the 18-month period, July 1, 1982, through December 31, 1983. The bill also extends the Trust Fund's spending authority through September 30, 1983, and approves the Trust Fund expenditure purposes as contained in H.R. 2643 as reported by the House Committee on Public Works and Transportation.

Trust Fund Statute Transferred to the Internal Revenue Code

Effective July 1, 1982, the statutory provisions regarding the Airport and Airway Trust Fund are transferred to a new title in the Internal Revenue Code in order to coordinate those provisions more closely with the excise taxes which fund the Trust Fund. (The Black Lung Disability Trust Fund provisions were transferred to the Code in the Black Lung Benefits Revenue Act of 1981, P.L. 97–119.)

Customs Overtime Charge

Finally, the committee bill repeals the present prohibition against charging aviation users for overtime costs associated with services provided by the U.S. Customs Service personnel during regularly scheduled hours (e.g., 8:00 a.m.–5:00 p.m.) on Sundays and holidays, effective July 1, 1982.

II. EXPLANATION OF PROVISIONS

A. Airport and Airway Trust Fund Taxes

The Airport and Airway Revenue Act of 1970 (title II of Public Law 91–258) increased some existing aviation user taxes, imposed some new aviation user taxes and established the Airport and Airway Trust Fund to receive revenues from these user taxes. These excise taxes were allowed either to expire or to be reduced on October 1, 1980. The revenues from the aviation-related taxes went into the Airport and Airway Trust Fund for the period July 1, 1970, through September 30, 1980 (the "trust fund period").

1. Air passenger and air freight excise taxes

Present and Prior Law

Air passenger ticket tax

In the case of air passenger transportation within the United States, the tax is 5 percent of the amount of the airfare (sec. 4261(a)), with the revenues deposited into the general fund.[1]

Air transportation between the United States and a foreign location which is not more than 225 miles from the nearest point in the continental United States (defined as only within Canada and Mexico), as well as between two such foreign locations, generally is subject to the 5-percent tax where payment for the travel is made in the United States. This tax does not apply to transportation between the United States and other foreign locations where payment is made outside the United States, nor does it apply to the U.S. portions of certain uninterrupted international air transportation.[2] Also, the 5-percent passenger tax does not apply to the portion of flights to or from or betwen Alaska and Hawaii which are not made over the United States.

International departure tax

During the trust fund period, a $3 per passenger departure tax (a new tax added by the 1970 Act) applied to international air transportation that began in the United States, and also to flights from the continental U.S. to or from Alaska or Hawaii or between Alaska and Hawaii. This tax expired on October 1, 1980 (sec. 4261(c)).

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[1] The air passenger ticket tax was 8 percent for the period July 1, 1970, through September 30, 1980, with the revenues deposited into the Airport and Airway Trust Fund. The pre-trust fund ticket tax rate was 5 percent.

[2] For the prior law $3 international departure tax to have applied in lieu of the domestic air passenger ticket tax, the air transportation must have been an uninterrupted international flight from a point beginning in the United States and ending outside the United States (and outside the 225-mile zone in Canada and Mexico). An uninterrupted international flight may have a stopover at a domestic point of not more than 6 hours without being subject to the domestic ticket tax under present law.

Air freight waybill tax

In the case of air transportation of property, the 1970 Act imposed a new tax of 5 percent of the air freight waybill charge. This tax expired on October 1, 1980. In determining taxable transportation, the same rules generally applied as for transportation of persons, except that the air freight tax applied only to amounts paid for transportation of property by air beginning and ending in the United States (sec. 4271), i.e., the tax did not apply to the international portion of flights from the continental U.S. to or from Alaska or Hawaii or between Alaska and Hawaii.

Exemptions

Exemptions from these taxes are provided for transportation by small aircraft on nonestablished lines and for private air transportation services provided within a group of affiliated corporations. Aircraft not subject to the passenger or freight taxes are subject to the applicable fuels tax, described below.

Reasons for Change

The committee believes that the air passenger and air freight waybill taxes should be extended through calendar year 1983 to provide a continued source of funding for the Airport and Airway Trust Fund expenditure authorizations. H.R. 2643, as reported by the Committee on Public Works and Transportation, provides trust fund authorizations through fiscal year 1983.

The committee estimates that continuation of the present 5-percent air passenger ticket tax (representing most of the trust fund revenues) for the trust fund authorization period under H.R. 2643 as reported will continue a significant trust fund surplus (uncommitted balance) through fiscal year 1983.[3] Therefore, the committee concluded that the ticket tax should continue at the 5-percent rate through December 31, 1983, rather than at an increased rate at this time. This rate of tax, along with the other aviation trust fund taxes will result in an uncommitted trust fund balance of about $2.0 billion at the end of the fiscal year 1983. (This assumes the level of program authorizations in H.R. 2643 as proposed to be amended by the Committee on Public Works and Transportation and the Committee on Science and Technology.)[4] This level of tax will provide funds for necessary future trust fund expenditures, and therefore should avoid possible excessive future tax rate increases to finance a modernized, expanding air transportation

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[3] As of the end of the fiscal year 1981 (September 30, 1981), the Airport and Airway Trust Fund had a cash balance of $4.7 billion, of which $3.0 billion was the uncommitted balance.

[4] The Committee on Public Works and Transportation has indicated its intention to propose floor amendments to H.R. 2643 to set the airport grant program (ADAP) at $600 million for each of fiscal years 1982 and 1983, and to increase the facilities and equipment (F&E) authorization from $425 million to $725 million for fiscal year 1983 as the first step in implementing the FAA's proposed National Airspace System (NAS) plan for modernizing the air traffic control system.

The Committee on Science and Technology intends to propose a bill (H.R. 6193), to be offered as a floor amendment to H.R. 2643, which will set the fiscal 1983 research and development (R&D) trust fund authorization amounts. (H.R. 2643, as reported, does not includes R&D amounts for fiscal 1983.)

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system. However, as noted below, the committee intends to review thoroughly the trust fund taxes and projected trust fund authorizations in advance of the December 31, 1983, expiration of the transfer of the air passenger ticket tax revenues to the Trust Fund.

The committee also determined that there should be some modifications in the present rules applicable to the air passenger tax. In order to encourage positive action with respect to the tax treatment of passengers within the 225-mile zone with Canada and Mexico, the committee agreed to remove the 225-mile zone rule if the Secretary of the Treasury reaches a satisfactory agreement with Canada and/or Mexico regarding the appropriate tax treatment of such air travel. In addition, the committee determined that the present 6-hour layover rule for determining whether a flight is an uninterrupted international flight not subject to the domestic ticket tax (and thus to be only subject to the international departure tax) is too restrictive, and therefore changed it to a 12-hour layover rule. Also, the committee believes that the international departure tax should be reimposed and increased to $5 per person through 1983.

Further, the committee concluded that the prior 5-percent air freight waybill tax also should be reimposed through December 31, 1983.

Explanation of Provisions

Air passenger ticket tax

Tax rate.—The committee bill continues the present 5-percent air passenger ticket tax, with the revenues from this tax to be transferred to the Airport and Airway Trust Fund for the 18-month period, July 1, 1982, through December 31, 1983. (After 1983, the revenues from the 5-percent ticket tax will be deposited in the general fund of the Treasury.)

The committee fully intends to review thoroughly the financing of the Airport and Airway Trust Fund prior to the December 31, 1983 expiration of the transfer of the revenues from the air passenger ticket tax and other aviation excise taxes to the Trust Fund. The committee wants to insure that the issue of appropriate tax levels and the appropriate types of taxes on various users of the airway system will be reexamined prior to that time.

225-mile zone.—The committee bill grants the Secretary of the Treasury the authority to waive the 225-mile zone rule if the Secretary determines that Canada or Mexico has entered into a "qualified agreement" regarding the tax treatment of persons travelling by air between the United States and that country. An agreement can be entered into only if the Secretary determines that the tax imposed by Canada or Mexico will be at an appropriate level. The agreement must set forth what transportation of persons by air is to be subject to tax by which country; and the agreement is to provide a satisfactory definition of transportation beginning or ending in the United States and ending or beginning in the other country. The committee's intention is that transportation beginning in the United States and ending in Canada or Mexico, as well as transportation beginning in Canada or Mexico and ending in the United States, be subject only to an appropriate tax by one country. This will avoid double taxation of round-trip flights between countries under their respective domestic air pas-

senger ticket tax, as in the case now with respect to Canada-United States air transportation.

Once the Secretary of the Treasury determines that Canada or Mexico has entered into a qualified agreement. the Secretary shall publish a notice of the determination in the *Federal Register*, along with a notice of the effective date of the waiver of the 225-mile zone rule. The waiver may be terminated by the Secretary if it is determined that a qualified agreement is no longer in effect. Upon such a determination, the Secretary is also to publish a notice in the *Federal Register*, indicating the effective date of the termination.

International departure tax

The committee bill reimposes the prior international departure tax at an increased rate of $5 per person. The reimposed tax applies from July 1, 1982, through December 31, 1983. In addition, the committee bill changes the present 6-hour layover rule for determining whether a flight is an international flight to a 12-hour rule. Thus, a ticket purchased in the United States for a flight beginning in the U.S. and ending outside the U.S. (and outside the present 225-mile zone) will be treated as an uninterrupted international flight (subject only to the $5 international departure tax) if a U.S. stopover is not more than 12 hours. For example, a trip beginning in Chicago, and continuing to London, may have a stopover point in New York for up to 12 hours without being subject to the 5-percent air passenger ticket tax on the domestic portion of the flight.

Air freight waybill tax

The committee bill also reimposes the prior 5-percent air freight waybill tax, effective from July 1, 1982, through December 31, 1983.

Effective Date

The provisions regarding the excise taxes on the transportation of persons and property by air apply to transportation beginning after June 30, 1982.

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2. Other aviation excise taxes

Present and Prior Law

In addition to the taxes on air passenger fares and air freight waybill charges, during the trust fund period there was a 7-cents-per-gallon tax on aviation fuels (gasoline and other fuels, including jet fuels) used by noncommercial (general) aviation, an aircraft use tax,[5] and a tax on aircraft tires and tubes.[6] Fuels for use by commercial aviation are and have been exempt from the taxes on gasoline and other fuels.[7]

The tax on noncommercial aviation gasoline was allowed to decline to 4 cents per gallon on October 1, 1980, while the 7-cents-per-gallon tax on non-gasoline fuels (e.g., kerosene—jet fuels) used by noncommercial aviation was allowed to expire on October 1, 1980. The aircraft use tax was new under the 1970 Act, and it also expired on October 1, 1980. The tax on aircraft tires and tubes was merely a transfer of revenues from the excise taxes on such tires and tubes from the Highway Trust Fund to the Airport and Airway Trust Fund during the trust fund period.

There is a general exemption (or a refund or credit) from the aviation fuels taxes for fuel sold for use (or used) on a farm for farming purposes. Also, the taxes on aviation fuels do not apply to aircraft owned by a tax-exempt aircraft museum operated exclusively for the procurement, care, and exhibition of World War II aircraft. Further, there are also general exemptions from the fuel taxes for fuel sold for use (or used) by a State or local government, by a nonprofit educational organization, and for exported fuels.

Reasons for Change

The committee concluded that noncommercial (general) aviation makes significant use of the airport and air navigation systems financed by the aviation excise taxes, and therefore should pay a greater share of the system's costs for such use into the Trust Fund. Also, the committee believes that the prior law aircraft use tax should not be reenacted.

In addition, the committee determined that the excise tax on aircraft tires and tubes should again be transferred to the Airport and Airway Trust Fund through December 31, 1983—the same time period as for other aviation-related excise taxes.

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[5] A tax of two parts: (1) a $25 annual per plane tax, plus (2) a weight tax of 3½ cents per pound for turbine-powered (jet) aircraft and 2 cents per pound for nonturbine-powered aircraft for each pound in excess of 2,500 pounds of "maximum certificated takeoff weight."

[6] Taxed at the general rates for nonhighway tires (5 cents per pound prior to January 1, 1981, and 4.875 cents per pound since) and tubes (10 cents per pound) under Code sec. 4071. (Under present law, the tax on tubes is scheduled to decline to 9 cents per pound on October 1, 1984.)

[7] Commercial aviation is subject to the air passenger ticket tax in lieu of the fuels tax (and previously was also subject to the air freight waybill tax).

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Explanation of Provisions

Fuels taxes on noncommercial aviation

The committee bill increases the noncommercial (general) aviation fuels tax on gasoline from the present 4 cents per gallon to 12 cents per gallon and imposes the same 12 cents per gallon tax rate on other noncommercial aviation fuels (e.g., kerosene—jet fuel), for the period July 1, 1982 through December 31, 1983.

Aircraft use tax

The committee bill repeals the prior law aircraft use tax ($25 per plane tax and weight tax) provisions from the Internal Revenue Code, since the tax expired on October 1, 1980, and the committee decided not to reinstate that tax.

Tax on aircraft tires and tubes

The committee bill again transfers to the Airport and Airway Trust Fund the revenues from the existing excise taxes on tires and tubes used on aircraft. This is merely a transfer of such revenues from the Highway Trust Fund rather than imposition of a new or additional tax.

Effective Date

The provisions with respect to the fuels taxes on noncommercial aviation and the transfer of aircraft tires and tubes tax revenues apply for the period July 1, 1982 through December 31, 1983.

3. Manner in which the tax on transportation by air is required to be shown on airline tickets

Present Law

For air transportation that is entirely subject to the air passenger ticket tax imposed under section 4261 (a) and (b), present law (sec. 7275) requires that an airline ticket show the total of (1) the amount paid for the air transportation and (2) the Federal excise tax on the air transportation. Further, if amounts paid with respect to any segment of the air transportation are shown on the ticket, the ticket also must show the total of the amount paid for the transportation and the Federal excise tax for each segment, as well as for the sum of segments.

In addition, any advertising of taxable air transportation (i.e., as taxed under sec. 4261 (a), (b), and (c)) which states the cost of such transportation is required to state such cost as the total of (1) the amount paid for the air transportation and (2) the Federal excise tax. Where the advertising separately states the amount to be paid for the air transportation and the Federal excise tax, the advertising must show the combined total (transportation plus tax) at least as prominently as the other stated amounts, and the excise tax is to be described substantially as "user taxes to pay for airport construction and airway safety and operations." Finally, present law provides a penalty of not more than $100 for each violation upon conviction (as a misdemeanor).

Reasons for Change

The committee believes that air transportation tickets which show amounts paid by segments should not be required to show the amounts paid and the Federal excise tax for each segment of the transportation. The committee believes that the present requirement is unnecessary and that this change will simplify ticket preparation and administration.

Explanation of Provision

The committee bill repeals the present requirement that air transportation tickets show the total of the amount paid and the Federal excise tax for each segment of the transportation in cases where the ticket shows the amount paid by segments. It retains the requirement, however, that the tickets show the total of the amount paid and the amount of Federal excise tax imposed on the air transportation for the entire trip.

Effective Date

This provision is effective with respect to transportation beginning after the date of enactment.

B. Airport and Airway Trust Fund Provisions

Background

Overview

The Airport and Airway Trust Fund was established as of July 1, 1970 (Title II of Public Law 91–258). Transfer of aviation-related excise tax revenues into the Trust Fund expired as of October 1, 1980.

The 1970 Act provided that the aviation excise taxes imposed by the Act were to be deposited into the Trust Fund and, with interest earned on the deposits, were to be available to meet specified airport and airway obligations of the United States incurred under Title I of the 1970 Act, as it was in effect on the date of enactment. As a result, subsequent expansion of trust fund budget authority required corresponding amendments to the trust fund statute.

Summary of trust fund authorization purposes

The following outline presents a summary listing of the Airport and Airway Trust Fund expenditure programs authorized under Public Law 91–258 as amended.

a. *Airport Development Aid Program (ADAP).*—

(1) *Airport planning.*—Grants to planning agencies for airport system planning and public agencies for airport master planning; also, airport noise compatibility planning grants for air carrier airports eligible for terminal development costs.

(2) *Airport development projects:*

(*a*) *Airport construction.*—Construction, improvement or repair of a public airport (includes removal of airport hazards and construction of physical barriers and landscaping to diminish noise).

(*b*) *Airport terminal facilities.*—Nonrevenue-producing public use areas which are directly related to movement of passengers and baggage (includes baggage facilities and passenger-moving equipment) at air carrier airports, the sponsors of which certify that they have the required safety and security equipment; does not include costs of constructing public parking facilities for passenger automobiles or costs to construct, alter, or repair a hangar or any airport building unless used to house facilities or activities directly related to safety of persons at the airport. Authorized uses of funds also include multimodal terminal development and bond retirement for certain airports.

(*c*) *Land acquisition.*—Includes land or property interests for airport noise control purposes.

(*d*) *Airport-related equipment.*—Airport security equipment required by Department of Transportation regulations, snow removal equipment, noise suppressing equipment, navigation aids, and safety equipment required for airport certification.

(*e*) *Airport noise compatibility programs.*—Includes soundproofing of public buildings. Local governmental units are eligible for project grants as well as airports.

b. *Facilities and Equipment Program (F&E).*—Costs of acquiring, establishing, and improving air navigation facilities.

c. *Research, Engineering, Development, and Demonstration Program (R.E. & D.).*—Projects in connection with Federal Aviation Administration research and development activities.

d. *Operations and Maintenance Programs (O&M).*—Flight checking and maintenance of air navigation facilities; services provided under international agreements relating to the joint financing of air navigation services assessed against the U.S. Government.

e. *Other costs.*—Certain airline costs of international passenger security screening facilities and related services.

Reasons for Change

The committee determined that the Airport and Airway Trust Fund provisions should be continued through fiscal year 1983, to provide a funding mechanism for the airport and airway program authorizations of H.R. 2643, as reported by the Committee on Science and Technology and the Committee on Public Works and Transportation and as proposed to be amended by those committees.

The committee believes that procedural changes are needed to facilitate the exercise of its responsibilities with respect to the Airport and Airway Trust Fund. Specifically, the committee believes that provisions which establish the Trust Fund and relate to its management should be transferred to the Internal Revenue Code, that these provisions should be standardized and updated to conform to the language of other trust funds, and that the financing of the Trust Fund should be considered in connection with any expansion of the expenditure purposes of the Trust Fund.

Explanation of Provisions

Extension of trust fund provisions and transfers to the fund

The committee bill extends authority for expenditures from the Airport and Airway Trust Fund through September 30, 1983, and again transfers aviation excise tax receipts to the Trust Fund. Receipts from the aviation excise taxes extended or reinstated under the bill will be transferred to the Trust Fund for the 18-month period, July 1, 1982, through December 31, 1983. These monies and the interest earned thereon will be available to fund program authorizations under H.R. 2643.

Trust fund expenditure purposes

Under H.R. 2643, as approved by the Committee on Public Works and Transportation, the following additional expenditure purposes will be authorized from the Airport and Airway Trust Fund (all of which are approved as eligible trust fund expenditure functions under the Ways and Means Committee bill):

1. *Airport development.*—

(*a*) *Public-use airports.*—Modifies the definition of eligible airports to include (in addition to public airports) privately-owned reliever airports or other privately-owned airports enplaning

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2,500 or more passengers annually and receiving scheduled passenger service which are used or are to be used for public purposes. (The public use must be available for the economic life, not less than 10 years, of the facility that was developed with Federal funds.)

(*b*) *Terminal facilities.*—Expands to include all commercial service airports (public airports enplaning 2,500 or more passengers annually and receiving scheduled passenger aircraft service).

(*c*) *Airport-related equipment.*—Aviation-related weather reporting equipment (currently funded under the Facilities and Equipment program, where it is used for air traffic control and advisory information, and landing purposes).

2. *Research, Engineering, Development, and Demonstration.*—Unlike Public Law 91–258 as amended, specified amounts of research and development funds are earmarked for:

(*a*) air traffic control purposes;

(*b*) navigation purposes;

(*c*) aviation weather purposes;

(*d*) aviation medicine purposes; and

(*e*) amounts as may be necessary for increases, in salary, pay, retirement, or other employee benefits authorized by law.

3. *Airway operations.*—Adds limited costs of operating air navigation facilities to certain costs of maintaining such facilities.

4. *Training of State and local government employees.*—Authorizes up to $250,000 per year for training purposes related to the provisions of the bill.

5. *Study of certain air traffic control needs.*—Relating to air traffic control needs in the northeastern United States (6-month study).

6. *Grants for explosive detection K–9 teams.*—Authorizes limited grants for continuation of Explosive Detection K–9 Team Training Program for detecting explosives at airports and aboard aircraft.

Transfer of trust fund provisions to the Internal Revenue Code

Under the committee bill, provisions which establish the Airport and Airway Trust Fund and relate to its management, and provisions by which amounts appropriated to the Trust Fund are transferred from the general fund of the Treasury will become provisions of the Internal Revenue Code of 1954. The Airport and Airway Trust Fund transferred to the Code by the bill will be treated for all purposes of law as the continuation of the Airport and Airways Trust Fund established by Title II of Public Law 91–258.

The bill standardizes and updates provisions of the Airport and Airway Trust Fund to conform to the language of other trust funds. The committee intends no other substantive effect in deleting archaic language in the existing trust fund statute.

Effective Date

The trust fund provisions are effective on July 1, 1982.

C. Reimbursements of Certain Overtime Charges to the Customs Service

Present Law

Present law authorizes the United States Customs Service to charge commercial and noncommercial aviation users for certain costs of providing inspections and other services (19 U.S.C. 1451). These costs include the cost of salaries for Customs Service personnel; however, overtime costs are subject to special limitations. First, overtime charges incurred between 5:00 p.m. and 8:00 a.m. on any day cannot exceed $25 in connection with the arrival in or departure from the United States of an aircraft not being used to transport persons or property for hire (i.e., noncommercial aviation"). In the case of commercial aviation, the $25 maximum does not apply (49 U.S.C. 1741(a)). Second, overtime costs incurred during regularly established hours of service (e.g., 8:00 a.m. to 5:00 p.m.) on Sundays and holidays cannot be charged to commercial or noncommercial aviation (49 U.S. 1741(e)).

Reasons for Change

The committee determined that commercial and noncommercial aviation, as users of the service should reimburse the Customs Service for overtime costs it incurs during regularly established hours of service on Sundays and holidays. The committee did not, however, change the maximum overtime amount that can be charged to a noncommercial aircraft for Customs personnel costs incident to its arrival in or departure from the United States.

Explanation of Provision

The committee bill repeals the prohibition on charging for overtime costs during regularly established hours of service (e.g., 8:00 a.m. to 5:00 p.m.) on Sundays and holidays. The $25 per arrival or departure maximum on overtime costs that can be charged in the case of noncommercial aviation will apply to such Sunday and holiday service and will continue to apply to all service after 5:00 p.m. and before 8:00 a.m. The effect of the provision is to reinstate the law prior to enactment of Public Law 94–353 (approved July 12, 1976).

Effective Date

This provision applies to services rendered by Customs Service personnel after June 30, 1982.

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III. BUDGET EFFECTS OF THE BILL AS REPORTED

Table 1 shows the additional tax receipts attributable to the committee bill for fiscal years 1982–1984. The extended and increased aviation excise taxes will increase fiscal year budget receipts by $49 million in 1982, $355 million in 1983, and $142 million in 1984.

Table 2 presents total Airport and Airway Trust Fund tax receipts under the committee bill for fiscal years 1982–1984. Fiscal year trust fund receipts will be $368 million in 1982, $1,829 million in 1983, and $482 million in 1984.

In compliance with clause 7 of Rule XIII of the House of Representatives, the following statement is made about the effect on the budget of the provisions of the committee bill as reported. The revenue effects of the aviation excise tax provisions of the committee bill for fiscal years 1982–1984 are shown in table 1. Also, the provision of the bill relating to reimbursement of overtime charges to the U.S. Customs Service will result in offsetting budget receipts of about $7.5 million annually.

Table 1.—Estimated Net Increase in Aviation Excise Tax Receipts Under H.R. 4800 as Reported, Fiscal Years 1982–1984 [1]

(Millions of dollars)

Tax	1982	1983	1984
Air passenger ticket tax (5%) [2]	0	0	0
Air freight waybill tax (5%) [3]	12	114	48
International departure tax [4]	15	137	51
Fuels tax for noncommercial aviation (12¢/gal.) [5]	22	104	43
Aircraft tires and tubes taxes [6]	0	0	0
Total increase in tax receipts	49	355	142

[1] This table shows the sum of additional tax receipts attributable to the committee bill as reported. These estimates include all receipts in excess of present law for the Airport and Airway Trust Fund, the Highway Trust Fund, and the general fund.

[2] The committee bill transfers ticket tax collections from the general fund to the Airport and Airway Trust Fund for the period July 1, 1982 through December 31, 1983, but does not change total tax receipts.

[3] Reimposed at 5 percent from July 1, 1982 through December 31, 1983.

[4] Imposed at $5 per person from July 1, 1982 through December 31, 1983.

[5] The 12-cents-per-gallon tax on noncommercial aviation applies from July 1, 1982 through December 31, 1983. After December 31, 1983, the tax on noncommercial aviation gasoline would drop to 4 cents through September 30, 1984, and to 1½ cents thereafter. Also, the tax on nongasoline fuels (i.e., jet fuel) would expire after December 31, 1983.

[6] The committee bill transfers amounts attributable to the taxes on aircraft tires and tubes from the Highway Trust Fund to the Airport Trust Fund, but does not increase overall receipts.

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Table 2.—Estimated Airport and Airway Trust Fund Receipts Under H.R. 4800 as Reported, Fiscal Years 1982–1984

(Millions of dollars)

Tax	1982	1983	1984
Air passenger ticket tax (5%) [1]	318	1,458	387
Air freight waybill tax (5%) [2]	12	114	30
International departure tax [3]	15	137	35
Fuels tax for noncommercial aviation (12¢/gal) [4]	23	119	30
Aircraft tires and tubes taxes [5]	(6)	1	(6)
Total airport and airway trust fund receipts	368	1,829	482

[1] Receipts from the existing 5-percent ticket tax are to be transferred to the Airport and Airway Trust Fund during the period July 1, 1982 through December 31, 1983 (and will be deposited in the general fund thereafter).

[2] Reimposed at 5 percent from July 1, 1982 through December 31, 1983.

[3] Imposed at $5 per person from July 1, 1982 through December 31, 1983.

[4] Tax at 12 cents per gallon rate for noncommercial aviation fuels (gasoline and nongasoline) for the period July 1, 1982 through December 31, 1983.

[5] Extended at present law rates.

[6] Less than $500,000.

IV. VOTE OF THE COMMITTEE ON THE BILL AND OTHER MATTERS TO BE DISCUSSED UNDER HOUSE RULES

A. Vote of the Committee

In compliance with clause 3(l)(2)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made about the vote of the committee on the motion to approve H.R. 4800, as amended. The committee bill (to be offered as a separate title to H.R. 2643 as reported) was ordered favorably reported by voice vote.

B. Other Matters

In compliance with clauses 2(l)(3) and 2(l)(4) of Rule XI of the Rules of the House of Representatives, the following statements are made with respect to the action on the committee bill, H.R. 4800, as reported.

Oversight Findings

With respect to subdivision (A) of clause 2(l)(3) (relating to oversight findings), the committee advises that it was a result of the committee's oversight activities with respect to the operation of the Airport and Airway Trust Fund and the prior and present aviation excise taxes that the committee concluded that it is appropriate to enact the provisions contained in the committee bill. The committee held a public hearing on the subject on October 14, 1981, and approved the committee bill, as amended, on May 6, 1982.

New Budget Authority and Tax Expenditures

With respect to subdivision (B) of clause 2(l)(3), after consultation with the Director of the Congressional Budget Office, the committee states that the changes made to existing law by the committee bill involve no new budget authority or new or increased tax expenditures.

Consultation with Congressional Budget Officials on Budget Estimates

With respect to subdivision (C) of clause 2(l)(3), the committee advises that the Director of the Congressional Budget Office has examined the committee's budget estimates (as indicated in part III of this report) and agrees with the budget estimates, and submitted the following statement.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 12, 1982.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with the Budget Act, the Congressional Budget Office has examined the amended version of H.R.

4800—the Airport and Airway Revenue Act of 1982. This bill reinstates certain taxes imposed on aviation.

Under H.R. 4800, the domestic air passenger ticket tax continues at its present 5 percent rate, and the freight waybill tax is reinstated at its prior rate of 5 percent. The international departure tax is reinstated at a rate of $5 per person. The fuels tax for noncommercial aviation is imposed at 12 cents per gallon for both gasoline and jet fuel and aircraft tire and tube taxes continue as under present law.

The air freight tax, the international departure tax, and the noncommercial aviation fuels tax will apply for the 18-month period July 1, 1982 through December 31, 1983. After 1983, the aviation exercise taxes will revert to present law rates, and the revenues will no longer go into the Airport and Airway Trust Fund.

Finally the bill repeals the present prohibition against charging airlines for overtime costs associated with services provided by Customs Service personnel during regularly scheduled hours on Sundays and holidays. The Customs Service will be reimbursed about $7.5 million annually if the customs overtime charge provision is enacted.

In accordance with Section 403 of the Budget Act the Congressional Budget Office has examined and agrees with the Committee's estimates of all sections of the bill. The aviation provisions contained in the bill are expected to increase net budget receipts by the following amounts:

Fiscal year:	*Millions*
1982	$49
1983	355
1984	142

Sincerely,

RAYMOND C. SCHEPPACH
(For Alice M. Rivlin, Director).

Oversight by Committee on Government Operations

With respect to subdivision (D) of clause 2(l)(3), the committee advises that no oversight findings or recommendations have been submitted to the committee by the Committee on Government Operations regarding the subject matter of the committee amendment.

Inflationary Impact

In compliance with clause 2(l)(4), the committee states that the enactment of committee bill is not expected to have any significant inflationary impact on prices and costs in the operation of the national economy.

The committee bill continues the present 5-percent rate of the domestic air passenger ticket tax; repeals the prior aircraft use tax from the Code (lapsed since October 1, 1980); reinstates the 5-percent waybill tax on air transportation of property; imposes a tax of 8 cents per gallon on gasoline used in noncommercial aviation (in addition to the existing 4 cents per gallon tax) and a tax of 12 cents per gallon on other aviation fuels (i.e., jet fuels); reinstates the prior law international departure tax, but at a $5 per person level; transfers the provisions governing the Airport and Airway Trust Fund to the Internal Revenue Code; and authorizes reimbursement of overtime costs to the Customs Service for certain services provided to commercial or non-

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commercial aviation during regularly scheduled hours on Sundays and holidays.

The provisions reinstating or increasing certain aviation excise taxes will increase costs slightly to those aviation segments affected by the taxes. For example, reinstatement of the 5-percent air freight tax may result in some increase in overall air freight prices, depending on the extent of competition in air freight prices when the tax is reinstated. Also, the enactment of the $5 per person international departure tax will increase the cost to air passengers on international flights departing from the United States. Further, the increase in fuels taxes for noncommercial aviation will raise the costs of operating such aircraft. To the extent such tax increases are incurred as business expenses, the tax amounts will be deductible against their income tax. The authorization of reimbursement for certain overtime charges by the Customs Service not currently permitted will increase costs slightly to affected air carrier operators but at the same time will offset the same cost to the Federal Government.

V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman) :

INTERNAL REVENUE CODE OF 1954

* * * * * * *

Subtitle D—Miscellaneous Excise Taxes

* * * * * * *

CHAPTER 31—SPECIAL FUELS

Sec. 4041. Imposition of tax.
Sec. 4042. Tax on fuel used in commercial transportation on inland waterways.

SEC. 4041. IMPOSITION OF TAX.

(a) DIESEL FUEL.—There is hereby imposed a tax of 4 cents a gallon upon any liquid (other than any product taxable under section 4081)—

(1) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle, for use as a fuel in such vehicle; or

(2) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid under paragraph (1).

In the case of a liquid taxable under this subsection sold for use or used as a fuel in a diesel-powered highway vehicle (A) which (at the time of such sale or use) is not registered, and is not required to be registered, for highway use under the laws of any State or foreign country, or (B) which, in the case of a diesel-powered highway vehicle owned by the United States, is not used on the highway, the tax imposed by paragraph (1) or by paragraph (2) shall be 2 cents a gallon. If a liquid on which tax was imposed by paragraph (1) at the rate of 2 cents a gallon by reason of the preceding sentence is used as a fuel in a diesel-powered highway vehicle (A) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or (B) which, in the case of a diesel-powered highway vehicle owned by the United States, is used on the highway, a tax of 2 cents a gallon shall be imposed under paragraph (2).

(b) SPECIAL MOTOR FUELS.—There is hereby imposed a tax of 4 cents a gallon upon benzol, benezene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene,

gas oil, or fuel oil, or any product taxable under section 4081 or subsection (a) of this section)—

(1) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat; or

(2) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under paragraph (1).

In the case of a liquid taxable under this subsection sold for use, or used, in a qualified business use, the tax imposed by paragraph (1) or by paragraph (2) shall be 2 cents a gallon. If a liquid on which tax was imposed by paragraph (1) at the rate of 2 cents a gallon by reason of the preceding sentence is used otherwise than in a qualified business use, a tax of 2 cents a gallon shall be imposed under paragraph (2). For purposes of this subsection, the term "qualified business use" has the meaning given to such term by section 6421(d)(2).

(c) NONCOMMERCIAL AVIATION.—

(1) IN GENERAL.—There is hereby imposed a tax of [7] *12* cents a gallon upon any liquid (other than any product taxable under section 4081)—

(A) sold by any person to an owner, lessee, or other operator of an aircraft, for use as a fuel in such aircraft in noncommercial aviation; or

(B) used by any person as a fuel in an aircraft in noncommercial aviation, unless there was a taxable sale of such liquid under this section.

(2) GASOLINE.—There is hereby imposed a tax (at the rate specified in paragraph (3)) upon any product taxable under section 4081—

(A) sold by any person to an owner, lessee, or other operator of an aircraft, for use as a fuel in such aircraft in noncommercial aviation; or

(B) used by any person as a fuel in an aircraft in noncommercial aviation, unless there was a taxable sale of such product under subparagraph (A).

The tax imposed by this paragraph shall be in addition to any tax imposed under section 4081.

(3) RATE OF TAX.—The rate of tax imposed by paragraph (2) is [3] *8* cents a gallon.

(4) DEFINITION OF NONCOMMERCIAL AVIATION.—For purposes of this chapter, the term "noncommercial aviation" means any use of an aircraft, other than use in a business of transporting persons or property for compensation or hire by air. The term also includes any use of an aircraft, in a business described in the preceding sentence, which is properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282.

[(5) TERMINATION.—On and after October 1, 1980, the taxes imposed by paragraphs (1) and (2) shall not apply.]

(5) PERIOD DURING WHICH TAXES APPLY.—The taxes imposed by paragraphs (1) and (2) shall apply on and after July 1, 1982, and before January 1, 1984.

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CHAPTER 33—FACILITIES AND SERVICES

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Subchapter C—Transportation by Air

Part I. Persons.
Part II. Property.
Part III. Special provisions relating to taxes on transportation by air.

PART I—PERSONS

Sec. 4261. Imposition of tax.
Sec. 4262. Definition of taxable transportation.
Sec. 4263. Special rules.

SEC. 4261. IMPOSITION OF TAX.

(a) IN GENERAL.—There is hereby imposed upon the amount paid for taxable transportation (as defined in section 4262) of any person a tax equal to **[**8**]** *5* percent of the amount so paid. In the case of amounts paid outside of the United States for taxable transportation, the tax imposed by this subsection shall apply only if such transportation begins and ends in the United States.

(b) SEATS, BERTHS, ETC.—There is hereby imposed upon the amount paid for seating or sleeping accommodations in connection with transportation and with respect to which a tax is imposed by subsection (a), a tax equal to **[**8**]** *5* percent of the amount so paid.

(c) USE OF INTERNATIONAL TRAVEL FACILITIES.—There is hereby imposed a tax of **[**$3**]** *$5* upon any amount paid (whether within or without the United States) for any transportation of any person by air, if such transportation begins in the United States. This subsection shall not apply to any transportation all of which is taxable under subsection (a) (determined without regard to sections 4281 and 4282).

(d) BY WHOM PAID.—Except as provided in section 4263(a), the taxes imposed by this section shall be paid by the person making the payment subject to the tax.

[(e) REDUCTION, ETC., OF RATES.—Effective with respect to transportation beginning after September 30, 1980—

[(1) the rate of the taxes imposed by subsections (a) and (b) shall be 5 percent, and

[(2) the tax imposed by subsection (c) shall not apply.**]**

(e) PERIOD DURING WHICH TAX IMPOSED BY SUBSECTION (c) APPLIES.—The tax imposed by subsection (c) shall apply with respect to transportation beginning after June 30, 1982, and before January 1, 1984.

SEC. 4262. DEFINITION OF TAXABLE TRANSPORTATION.

(a) TAXABLE TRANSPORTATION; IN GENERAL.—For purposes of this part, except as provided in subsection (b), the term "taxable transportation" means—

(1) transportation by air which begins in the United States or in the 225-mile zone and ends in the United States or in the 225-mile zone; and

(2) in the case of transportation by air other than transportation described in paragraph (1), that portion of such transporta-

tion which is directly or indirectly from one port or station in the United States to another port or station in the United States, but only if such portion is not a part of uninterrupted international air transportation (within the meaning of subsection (c)(3)).

(b) EXCLUSION OF CERTAIN TRAVEL.—For purposes of this part, the term "taxable transportation" does not include that portion of any transportation by air which meets all 4 of the following requirements:

(1) such portion is outside the United States;

(2) neither such portion nor any segment thereof is directly or indirectly—

(A) between (i) a point where the route of the transportation leaves or enters the continental United States, or (ii) a port or station in the 225-mile zone, and

(B) a port or station in the 225-mile zone;

(3) such portion—

(A) begins at either (i) the point where the route of the transportation leaves the United States, or (ii) a port or station in the 225-mile zone, and

(B) ends at either (i) the point where the route of the transportation enters the United States, or (ii) a port or station in the 225-mile zone; and

(4) a direct line from the point (or the port or station) specified in paragraph (3)(A), to the point (or the port or station) specified in paragraph (3)(B), passes through or over a point which is not within 225 miles of the United States.

(c) DEFINITIONS.—For purposes of this section—

(1) CONTINENTAL UNITED STATES.—The term "continental United States" means the District of Columbia and the States other than Alaska and Hawaii.

(2) 225-MILE ZONE.—The term "225-mile zone" means that portion of Canada and Mexico which is not more than 225 miles from the nearest point in the continental United States.

(3) UNINTERRUPTED INTERNATIONAL AIR TRANSPORTATION.—The term "uninterrupted international air transportation" means any transportation by air which is not transportation described in subsection (a)(1) and in which—

(A) the scheduled interval between (i) the beginning or end of the portion of such transportation which is directly or indirectly from one port or station in the United States to another port or station in the United States and (ii) the end or beginning of the other portion of such transportation is not more than 6 hours, and

(B) the scheduled interval between the beginning or end and the end or beginning of any two segments of the portion of such transportation referred to in subparagraph (A)(i) is not more than [6] *12* hours.

For purposes of this paragraph, in the case of personnel of the United States Army, Air Force, Navy, Marine Corps, and Coast Guard traveling in uniform at their own expense when on official leave, furlough, or pass, the scheduled interval described in subparagraph (A) shall be deemed to be not more than [6] *12* hours if a ticket for the subsequent

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portion of such transportation is purchased within [6] *12* hours after the end of the earlier portion of such transportation and the purchaser accepts and utilizes the first accommodations actually available to him for such subsequent portion.

(d) TRANSPORTATION.—For purposes of this part, the term "transportation" includes layover or waiting time and movement of the aircraft in deadhead service.

(e) AUTHORITY TO WAIVE 225-MILE ZONE PROVISIONS.—

(1) IN GENERAL.—If the Secretary of the Treasury determines that Canada or Mexico has entered into a qualified agreement—

(A) the Secretary shall publish a notice of such determination in the Federal Register, and

(B) effective with respect to transportation beginning after the date specified in such notice, to the extent provided in the agreement the term "225-mile zone" shall not include part or all of the country with respect to which such determination is made.

(2) TERMINATION OF WAIVER.—If a determination was made under paragraph (1) with respect to any country and the Secretary of the Treasury subsequently determines that the agreement is no longer in effect or that the agreement is no longer a qualified agreement—

(A) the Secretary shall publish a notice of such determination in the Federal Register, and

(B) subparagraph (B) of paragraph (1) shall cease to apply with respect to transportation beginning after the date specified in such notice.

(3) QUALIFIED AGREEMENT.—For purposes of this subsection, the term "qualified agreement" means an agreement between the United States and Canada or Mexico (as the case may be)—

(A) setting forth that portion of the country which is not to be treated as within the 225-mile zone, and

(B) providing that the tax imposed by such country on transportation described in subparagraph (A) will be at a level which the Secretary of the Treasury determines to be appropriate.

(4) REQUIREMENT THAT AGREEMENT BE SUBMITTED TO CONGRESS.—No notice may be published under paragraph (1)(A) with respect to any qualified agreement before the date 90 days after the date on which a copy of such agreement was furnished to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART II—PROPERTY

Sec. 4271. Imposition of tax.
Sec. 4272. Definition of taxable transportation, etc.

SEC. 4271. IMPOSITION OF TAX.

(a) IN GENERAL.—There is hereby imposed upon the amount paid within or without the United States for the taxable transportation (as defined in section 4272) of property a tax equal to 5 percent of the amount so paid for such transportation. The tax imposed by this sub-

section shall apply only to amounts paid to a person engaged in the business of transporting property by air for hire.

(b) BY WHOM PAID.—

(1) IN GENERAL.—Except as provided by paragraph (2), the tax imposed by subsection (a) shall be paid by the person making the payment subject to tax.

(2) PAYMENTS MADE OUTSIDE THE UNITED STATES.—If a payment subject to tax under subsection (a) is made outside the United States and the person making such payment does not pay such tax, such tax—

(A) shall be paid by the person to whom the property is delivered in the United States by the person furnishing the last segment of the taxable transportation in respect of which such tax is imposed, and

(B) shall be collected by the person furnishing the last segment of such taxable transportation.

(c) DETERMINATION OF AMOUNTS PAID IN CERTAIN CASES.—For purposes of this section, in any case in which a person engaged in the business of transporting property by air for hire and one or more other persons not so engaged jointly provide services which include taxable transportation of property, and the person so engaged receives, for the furnishing of such taxable transportation, a portion of the receipts from the joint providing of such services, the amount paid for the taxable transportation shall be treated as being the sum of (1) the portion of the receipts so received, and (2) any expenses incurred by any of the persons not so engaged which are properly attributable to such taxable transportation and which are taken into account in determining the portion of the receipts so received.

[(d) TERMINATION.—Effective with respect to transportation beginning after September 30, 1980, the tax imposed by subsection (a) shall not apply.]

(d) PERIOD DURING WHICH TAX APPLIES.—The tax imposed by subsection (a) shall apply with respect to transportation beginning after June 30, 1982, and before January 1, 1984.

* * * * * * *

PART III—SPECIAL PROVISIONS APPLICABLE TO TAXES ON TRANSPORTATION BY AIR

Sec. 4281. Small aircraft on nonestablished lines.
Sec. 4282. Transportation by air for other members of affiliated group.

SEC. 4281. SMALL AIRCRAFT ON NONESTABLISHED LINES.

The taxes imposed by sections 4261 and 4271 shall not apply to transportation by an aircraft having a maximum certificated takeoff weight [(as defined in section 4492(b))] of 6,000 pounds or less, except when such aircraft is operated on an established line. *For purposes of the preceding sentence, the term "maximum certificated takeoff weight" means the maximum such weight contained in the type certificate or airworthiness certificate.*

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CHAPTER 36—CERTAIN OTHER EXCISE TAXES

SUBCHAPTER D. Tax on use of certain vehicles.
[SUBCHAPTER E. Tax on use of civil aircraft.]

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[Subchapter E—Tax on Use of Civil Aircraft

[Sec. 4491. Imposition of tax.
[Sec. 4492. Definitions.
[Sec. 4493. Special rules.
[Sec. 4494. Cross reference.

[SEC. 4491. IMPOSITION OF TAX.

[(a) IMPOSITION OF TAX.—A tax is hereby imposed on the use of any taxable civil aircraft during any year at the rate of—

[(1) $6.25, plus

[(2) (A) in the case of an aircraft (other than a turbine-engine-powered aircraft), ½ cent a pound for each pound of the maximum certificated takeoff weight in excess of 2,500 pounds, or

[(B) in the case of any turbine-engine-powered aircraft, ⅞ cent a pound for each pound of the maximum certificated takeoff weight.

[(b) BY WHOM PAID.—Except as provided in section 4943(a), the tax imposed by this section shall be paid—

[(1) in the case of a taxable civil aircraft described in section 4492(a)(1), by the person in whose name the aircraft is, or is required to be, registered, or

[(2) in the case of a taxable civil aircraft described in section 4492(a)(2), by the United States person by or for whom the aircraft is owned.

[(c) PRORATION OF TAX.—If in any year the first use of the taxable civil aircraft is after the first month in such year, that portion of the tax which is determined under subsection (a)(2) shall be reckoned proportionately from the first day of the month in which such use occurs to and including the last day in such year.

[(d) ONE TAX LIABILITY PER YEAR.—

[(1) IN GENERAL.—To the extent that the tax imposed by this section is paid with respect to any taxable civil aircraft for any year, no further tax shall be imposed by this section for such year with respect to such aircraft.

[(2) CROSS REFERENCE.—For privilege of paying tax imposed by this section in installments, see section 6156.

[(e) TERMINATION.—On and after October 1, 1980, the tax imposed by subsection (a) shall not apply.

[SEC. 4492. DEFINITIONS.

[(a) TAXABLE CIVIL AIRCRAFT.—For purposes of this subchapter, the term "taxable civil aircraft" means any engine driven aircraft—

[(1) registered, or required to be registered, under section 501(a) of the Federal Aviation Act of 1958 (49 U.S.C., sec 1401(a)), or

[(2) which is not described in paragraph (1) but which is owned by or for a United States person.

[Such term does not include any aircraft owned by an aircraft mu-

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seum (as defined in section 4041(h)(2)) and used exclusively for purposes set forth in section 4041(h)(2)(C).

[(b) WEIGHT.—For purposes of this subchapter, the term "maximum certificated takeoff weight" means the maximum such weight contained in the type certificate or airworthiness certificate.

[(c) OTHER DEFINITIONS.—For purposes of this subchapter—

[(1) YEAR.—The term "year" means the one-year period beginning on July 1.

[(2) USE.—The term "use" means use in the navigable airspace of the United States.

[(3) NAVIGABLE AIRSPACE OF THE UNITED STATES.—The term "navigable airspace of the United States" has the definition given to such term by section 101(24) of the Federal Aviation Act of 1958 (49 U.S.C., sec. 1301(24)), except that such term does not include the navigable airspace of the Commonwealth of Puerto Rico or of any possession of the United States.

[SEC. 4493. SPECIAL RULES.

[(a) PAYMENT OF TAX BY LESSEE.—

[(1) IN GENERAL.—Any person who is the lessee of any taxable civil aircraft on the day in any year on which occurs the first use which subjects such aircraft to the tax imposed by section 4491 for such year may, under regulations prescribed by the Secretary, elect to be liable for payment of such tax. Notwithstanding any such election, if such lessee does not pay such tax, the lessor shall also be liable for payment of such tax.

[(2) EXCEPTION.—No election may be made under paragraph (1) with respect to any taxable civil aircraft which is leased from a person engaged in the business of transporting persons or property for compensation or hire by air.

[(b) CERTAIN PERSONS ENGAGED IN FOREIGN AIR COMMERCE.—

[(1) ELECTION TO PAY TENTATIVE TAX.—Any person who is a significant user of taxable civil aircraft in foreign air commerce may, with respect to that portion of the tax imposed by section 4491 which is determined under section 4491(a)(2) on any taxable civil aircraft for any year, elect to pay the tentative tax determined under paragraph (2). The payment of such tentative tax shall not relieve such person from payment of the net liability for the tax imposed by section 4491 on such taxable civil aircraft determined as of the close of such year).

[(2) TENTATIVE TAX.—For purposes of paragraph (1), the tentative tax with respect to any taxable civil aircraft for any year is an amount equal to that portion of the tax imposed by section 4491 on such aircraft for such year which is determined under section 4491(a)(2), reduced by a percentage of such amount equal to the percentage which the aggregate of the payments to which such person was entitled under section 6426 (determined without regard to section 6426(c)(2)) with respect to the preceding year is of the aggregate of the taxes imposed by section 4491 for which such person was liable for payment for the preceding year.

[(3) SIGNIFICANT USERS OF AIRCRAFT IN FOREIGN AIR COMMERCE.—For purposes of paragraph (1), a person is a significant user of taxable civil aircraft in foreign air commerce for any year

only if the aggregate of the payments to which such person was entitled under section 6426 (determined without regard to section 6426(c)(2)) with respect to the preceding year was at least 10 percent of the aggregate of the taxes imposed by section 4491 for which such person was liable for payment for the preceding year.

[(4) NET LIABILITY FOR TAX.—For purposes of paragraph (1), the net liability for the tax imposed by section 4491 with respect to any taxable civil aircraft for any year is—

[(A) the amount of the tax imposed by such section, reduced by

[(B) the amount payable under section 6426 with respect to such aircraft for the year (determined without regard to section 6426(c)(2)).

[SEC. 4494. CROSS REFERENCE.

[For penalties and administrative provisions applicable to this subchapter, see subtitle F.]

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Subtitle F—Procedure and Administration

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CHAPTER 62—TIME AND PLACE FOR PAYING TAX

Subchapter A. Place and due date for payment of tax.
Subchapter B. Extensions of time for payment.

Subchapter A—Place and Due Date for Payments of Tax

Sec. 6151. Time and place for paying tax shown on returns.
Sec. 6152. Installment payments.
Sec. 6153. Installment payments of estimated income tax by individuals.
Sec. 6154. Installment payments of estimated income tax by corporations.
Sec. 6155. Payment on notice and demand.
Sec. 6156. Installment payments of tax on use of highway motor vehicles [and civil aircraft].
Sec. 6157. Payment of Federal unemployment tax on quarterly or other time period basis.
Sec. 6158. Installment payment of tax attributable to divestitures pursuant to Bank Holding Company Act Amendments of 1970.

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SEC. 6156. INSTALLMENT PAYMENTS OF TAX ON USE OF HIGHWAY MOTOR VEHICLES [AND CIVIL AIRCRAFT].

(a) PRIVILEGE TO PAY TAX IN INSTALLMENTS.—If the taxpayer files a return of the tax imposed by section 4481 [or 4491] on or before the date prescribed for the filing of such return, he may elect to pay the tax shown on such return in equal installments in accordance with the following table:

If liability is incurred in—	*The number of installments shall be—*
July, August, or September	4
October, November, or December	3
January, February, or March	2

(b) DATES FOR PAYING INSTALLMENTS.—In the case of any tax payable in installments by reason of an election under subsection (a)—

(1) the first installment shall be paid on the date prescribed for payment of the tax,

(2) the second installment shall be paid on or before the last day of the third month following the calendar quarter in which the liability was incurred.

(3) the third installment (if any) shall be paid on or before the last day of the sixth month following the calendar quarter in which the liability was incurred, and

(4) the fourth installment (if any) shall be paid on or before the last day of the ninth month following the calendar quarter in which the liability was incurred.

(c) PRORATION OF ADDITIONAL TAX TO INSTALLMENTS.—If an election has been made under subsection (a) in respect of tax reported on a return filed by the taxpayer and tax required to be shown but not shown on such return is assessed before the date prescribed for payment of the last installment, the additional tax shall be prorated equally to the installments for which the election was made. That part of the additional tax so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as and as part of such installment. That part of the additional tax so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary.

(d) ACCELERATION OF PAYMENTS.—If the taxpayer does not pay any installment under this section on or before the date prescribed for its payment, the whole of the unpaid tax shall be paid upon notice and demand from the Secretary.

(e) SECTION INAPPLICABLE TO CERTAIN LIABILITIES.—This section shall not apply to any liability for tax incurred in—

(1) April, May, or June of any year, or

(2) July, August, or September of 1984 [in the case of the tax is imposed by section 4481].

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CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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Subchapter B—Rules of Special Application

Sec. 6411. Tentative carryback and refund adjustments.
Sec. 6412. Floor stocks refunds.
Sec. 6413. Special rules applicable to certain employment taxes.
Sec. 6414. Income tax withheld.
Sec. 6415. Credits or refunds to persons who collected certain taxes.
Sec. 6416. Certain taxes on sales and services.
Sec. 6418. Sugar.
Sec. 6419. Excise tax on wagering.
Sec. 6420. Gasoline used on farms.
Sec. 6421. Gasoline used for certain nonhighway purposes or by local transit systems.
Sec. 6422. Cross references.
Sec. 6423. Conditions to allowance in the case of alcohol and tobacco taxes.
Sec. 6424. Lubricating oil used for certain nontaxable purposes.

Sec. 6425. Adjustment of overpayment of estimated income tax by corporation.
[Sec. 6426. Refund of aircraft use tax where plane transports for hire in foreign air commerce.]
Sec. 6427. Fuels not used for taxable purposes.
Sec. 6428. 1981 rate reduction tax credit.

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[SEC. 6426. REFUND OF AIRCRAFT USE TAX WHERE PLANE TRANSPORTS FOR HIRE IN FOREIGN AIR COMMERCE.

[(a) GENERAL RULE.—In the case of any aircraft used in the business of transporting persons or property for compensation or hire by air, if any of such transportation during any period is transportation in foreign air commerce, the Secretary shall pay (without interest) to the person who paid the tax under section 4491 for such period the amount determined by multiplying that portion of the amount so paid for such period which is determined under section 4491(a)(2) with respect to such aircraft by a fraction—

[(1) the numerator of which is the number of airport-to-airport miles such aircraft traveled in foreign air commerce during such period while engaged in such business, and

[(2) the denominator of which is the total number of airport-to-airport miles such aircraft traveled during such period.

[(b) DEFINITIONS.—For purposes of this section—

[(1) FOREIGN AIR COMMERCE.—The term "foreign air commerce" means any movement by air of the aircraft which does not begin and end in the United States; except that any segment of such movement in which the aircraft traveled between two ports or stations in the United States shall be treated as travel which is not foreign air commerce.

[(2) AIRPORT-TO-AIRPORT MILES.—The term "airport-to-airport miles" means the official mileage distance between airports as determined under regulations prescribed by the Secretary.

[(c) PAYMENTS TO PERSONS PAYING TENTATIVE TAX.—In the case of any person who paid a tentative tax determined under section 4493(b) with respect to any aircraft for any period, the amount payable under subsection (a) with respect to such aircraft for such period—

[(1) shall be computed with reference to that portion of the tax imposed under section 4491 for such period which is determined under section 4491(a)(2), and

[(2) as so computed, shall be reduced by an amount equal to—

[(A) the amount by which that portion of the tax imposed under section 4491 for such period which is determined under section 4491(a)(2), exceeds

[(B) the amount of the tentative tax determined under section 4493(b) paid for such period.

[(d) TIME FOR FILING CLAIM.—Not more than one claim may be filed under this section by any person with respect to any year. No claim shall be allowed under this subsection with respect to any year unless filed on or before the first September 30 after the end of such year.

[(e) REGULATIONS.—The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section,

under which payments may be made under this section or the amount to which any person is entitled under this section with respect to any period may be treated by such person as an overpayment which may be credited against the tax imposed by section 4491 with respect to such period.]

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CHAPTER 75—CRIMES, OTHER OFFENSES, AND FORFEITURES

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Subchapter B—Other Offenses

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SEC. 7275. PENALTY FOR OFFENSES RELATING TO CERTAIN AIRLINE TICKETS AND ADVERTISING.

[(a) TICKETS.—In the case of transportation by air all of which is taxable transportation (as defined in section 4262), the ticket for such transportation—

[(1) shall show the total of (A) the amount paid for such transportation and (B) the taxes imposed by sections 4261(a) and (b), and

[(2) if the ticket shows amounts paid with respect to any segment of such transportation, shall comply with paragraph (1) with respect to such segments as well as with respect to the sum of the segments.]

(a) TICKETS.—In the case of transportation by air all of which is taxable transportation (as defined in section 4262), the ticket for such transportation shall show the total of—

(1) the amount paid for such transportation, and

(2) the taxes imposed by subsections (a) and (b) of section 4261.

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Subtitle I—Trust Fund Code

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CHAPTER 98—TRUST FUND CODE

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Subchapter A—Establishment of Trust Funds

[Sec. 9501. Establishment of Black Lung Disability Trust Fund.]
Sec. 9501. Black Lung Disability Trust Fund.
Sec. 9502. Airport and Airway Trust Fund.

SEC. 9501. [ESTABLISHMENT OF] BLACK LUNG DISABILITY TRUST FUND.

(a) CREATION OF TRUST FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the "Black Lung Dis-

ability Trust Fund", consisting of such amounts as may be appropriated or credited to the Black Lung Disability Trust Fund.

(2) TRUSTEES.—The trustees of the Black Lung Disability Trust Fund shall be the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services.

(b) TRANSFER OF CERTAIN TAXES; OTHER RECEIPTS.—

(1) TRANSFER TO BLACK LUNG DISABILITY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There are hereby appropriated to the Black Lung Disability Trust Fund amounts equivalent to the taxes received in the Treasury under section 4121 or subchapter B of chapter 42.

(2) CERTAIN REPAID AMOUNTS, ETC.—The following amounts shall be credited to the Black Lung Disability Trust Fund:

(A) Amounts repaid or recovered under subsection (b) of section 424 of the Black Lung Benefits Act (including interest thereon).

(B) Amounts paid as fines or penalties, or interest thereon, under section 423, 431, or 432 of the Black Lung Benefits Act.

(C) Amounts paid into the Black Lung Disability Trust Fund by a trust described in section 501(c)(21).

(c) REPAYABLE ADVANCES.—

(1) AUTHORIZATION.—There are authorized to be appropriated to the Black Lung Disability Trust Fund, as repayable advances, such sums as may from time to time be necessary to make the expenditures described in subsection (d).

(2) REPAYMENT WITH INTEREST.—Repayable advances made to the Black Lung Disability Trust Fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the Black Lung Disability Trust Fund for such purposes.

(3) RATES OF INTEREST.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding.

(d) EXPENDITURES FROM TRUST FUND.—Amounts in the Black Lung Disability Trust Fund shall be available, as provided by appropriation Acts, for—

(1) the payment of benefits under section 422 of the Black Lung Benefits Act in any case in which the Secretary of Labor determines that—

(A) the operator liable for the payment of such benefits—

(i) has not commenced payment of such benefits within 30 days after the date of an initial determination of eligibility by the Secretary of Labor, or

(ii) has not made a payment within 30 days after that payment is due,

except that, in the case of a claim filed on or after the date of the enactment of the Black Lung Benefits Revenue Act of 1981, amounts will be available under this subparagraph only for benefits accruing after the date of such initial determination, or

(B) there is no operator who is liable for the payment of such benefits,

(2) the payment of obligations incurred by the Secretary of Labor with respect to all claims of miners or their survivors in which the miner's last coal mine employment was before January 1, 1970,

(3) the repayment into the Treasury of the United States of an amount equal to the sum of the amounts expended by the Secretary of Labor for claims under part C of the Black Lung Benefits Act which were paid before April 1, 1978, except that the Black Lung Disability Trust Fund shall not be obligated to pay or reimburse any such amounts which are attributable to periods of eligibility before January 1, 1974.

(4) the repayment of, and the payment of interest on, repayable advances to the Black Lung Disability Trust Fund,

(5) the payment of all expenses of administration on or after March 1, 1978—

(A) incurred by the Department of Labor or the Department of Health and Human Services under part C of the Black Lung Benefits Act (other than under section 427(a) or 433), or

(B) incurred by the Department of the Treasury in administering subchapter B of chapter 32 and in carrying out its responsibilities with respect to the Black Lung Disability Trust Fund,

(6) the reimbursement of operators for amounts paid by such operators (other than as penalties or interest) before April 1, 1978, in satisfaction (in whole or in part) of claims of miners whose last employment in coal mines was terminated before January 1, 1970, and

(7) the reimbursement of operators and insurers for amounts paid by such operators and insurers (other than amounts paid as penalties, interest, or attorney fees) at any time in satisfaction (in whole or in part) of any claim denied (within the meaning of section 402(i) of the Black Lung Benefits Act) before March 1, 1978, and which is or has been approved in accordance with the provisions of section 435 of the Black Lung Benefits Act.

For purposes of the preceding sentence, any reference to section 402(i), 422, or 435 of the Black Lung Benefits Act shall be treated as a reference to such section as in effect immediately after the enactment of this section.

SEC. 9502. AIRPORT AND AIRWAY TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Airport and Airway Trust Fund", consisting of such amounts as may be appropriated or credited to the Airport and Airway Trust Fund as provided in this section or section 9602(b).

(b) TRANSFER TO AIRPORT AND AIRWAY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There is hereby appropriated to the Airport and Airway Trust Fund—

(1) amounts equivalent to the taxes received in the Treasury after June 30, 1982, and before January 1, 1984, under subsections (c) and (d) of section 4041 (taxes on aviation fuel) and under sections 4261 and 4271 (taxes on transportation by air);

(2) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after June 30, 1982, and before January 1, 1984, under section 4081, with respect to gasoline used in aircraft; and

(3) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after June 30, 1982, and before January 1, 1984, under paragraphs (2) and (3) of section 4071(a), with respect to tires and tubes of the types used on aircraft.

(c) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated to the Airport and Airway Trust Fund such additional sums as may be required to make the expenditures referred to in subsection (d) of this section.

(d) EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.—

(1) AIRPORT AND AIRWAY PROGRAM.—Amounts in the Airport and Airway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, 1983, to meet those obligations of the United States—

(A) incurred under title I of the Airport and Airway Development Act of 1970 or of the Airport and Airway Development Act Amendments of 1976 or of the Aviation Safety and Noise Abatement Act of 1979 or under the Fiscal Year 1981 Airport Development Authorization Act (as such Acts were in effect on the date of enactment of the Fiscal Year 1981 Airport Development Authorization Act) or incurred under the provisions of the Airport and Airway Improvement Act of 1982 (as such provisions were contained in such legislation as reported by the House Committee on Public Works and Transportation);

(B) heretofore or hereafter incurred under the Federal Aviation Act of 1958, as amended (49 U.S.C., 1301 et seq.), which are attributable to planning, research and development, construction, or operation and maintenance of—

(i) air traffic control,
(ii) air navigation,
(iii) communications, or
(iv) supporting services,

for the airway system; or

(C) for those portions of the administrative expenses of the Department of Transportation which are attributable to activities described in subparagraph (A) or (B).

(2) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN REFUNDS.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the

amounts paid after June 30, 1982, and before January 1, 1984, in respect of fuel used in aircraft, under section 6420 (relating to amounts paid in respect of gasoline used on farms), 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes), or 6427 (relating to fuels not used for taxable purposes).

(3) TRANSFERS FROM AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN SECTION 39 CREDITS.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the credits allowed under section 39 with respect to fuel used after June 30, 1982, and before January 1, 1984. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the credits allowed.

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SECTION 208 OF THE AIRPORT AND AIRWAY REVENUE ACT OF 1970

[SEC. 208. AIRPORT AND AIRWAY TRUST FUND.

[(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Airport and Airway Trust Fund" (hereinafter in this section referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

[(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There is hereby appropriated to the Trust Fund—

[(1) amounts equivalent to the taxes received in the Treasury after June 30, 1970, and before July 1, 1980, under subsections (c) and (d) of section 4041 (taxes on aviation fuel) and under sections 4261, 4271, and 4491 (taxes on transportation by air and on use of civil aircraft) of the Internal Revenue Code of 1954;

[(2) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after June 30, 1970, and before July 1, 1980, under section 4081 of such Code, with respect to gasoline used in aircraft; and

[(3) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after June 30, 1970, and before July 1, 1980, under paragraphs (2) and (3) of section 4071(a) of such Code, with respect to tires and tubes of the types used on aircraft.

[The amounts appropriated by paragraphs (1), (2), and (3) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraphs (1), (2), and (3) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

[(c) TRANSFER OF UNEXPENDED FUNDS.—At the close of June 30, 1970, there shall be transferred to the Trust Fund all unexpended funds which have been appropriated before July 1, 1970, out of the general fund of the Treasury to meet obligations of the United States (1) described in subparagraph (B) or (C) of subsection (f)(1) of this section, or (2) incurred under the Federal Airport Act (49 U.S.C., sec. 1101 et seq.).

[(d) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated to the Trust Fund such additional sums as may be required to make the expenditures referred to in subsection (f) of this section.

(e) MANAGEMENT OF TRUST FUND.—

[(1) REPORT.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Secretary of Transportation) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next five fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made.

[(2) INVESTMENT.—

[(A) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

[(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

[(C) INTEREST OF CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

[(3) APPLICABILITY OF PARAGRAPH (2).—Paragraph (2) of this subsection shall not apply until the beginning of the fiscal year immediately following the first fiscal year beginning after June 30, 1970, in which the receipts of the Trust Fund under subsection (b) exceed 80 percent of the expenditures from the Trust Fund under subsection (f)(1).

[(f) EXPENDITURES FROM TRUST FUND.—

[(1) AIRPORT AND AIRWAY PROGRAM.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for making expenditures after June 30, 1970, and before October 1, 1981 to meet those obligations of the United States—

[(A) incurred under title I of this Act or of the Airport and Airway Development Act Amendments of 1976 or of the Aviation Safety and Noise Abatement Act of 1979 or under the Fiscal Year 1981 Airport Development Authorization Act (as such Acts were in effect on the date of enactment of the Fiscal Year 1981 Airport Development Authorization Act);

[(B) heretofore or hereafter incurred under the Federal Aviation Act of 1958, as amended (49 U.S.C., sec. 1301 et seq.), which are attributable to planning, research and development, construction, or operation and maintenance of—

[(i) air traffic control,

[(ii) air navigation,

[(iii) communications, or

[(iv) supporting services,

for the airway system; or

[(C) for those portions of the administrative expenses of the Department of Transportation which are attributable to activities described in subparagraph (A) or (B).

[(2) TRANSFERS FROM TRUST FUND ON ACCOUNT OF CERTAIN REFUNDS.—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to—

[(A) the amounts paid after June 30, 1970, and before July 1, 1980, in respect of fuel used in aircraft, under sections 6420 (relating to amounts paid in respect of gasoline used on farms), 6421 (relating to amounts paid in respect to gasoline used for certain nonhighway purposes), and 6427 (relating to fuels not used for taxable purposes) of the Internal Revenue Code of 1954, and

[(B) the amounts paid under section 6426 of such Code (relating to refund of aircraft use tax where plane transports for hire in foreign air commerce),

on the basis of claims filed for periods beginning after June 30, 1970.

[(3) TRANSFERS FROM TRUST FUND ON ACCOUNT OF CERTAIN SECTION 39 CREDITS.—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of

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the Treasury amounts equivalent to the credits allowed under section 39 of the Internal Revenue Code of 1954 with respect to fuel used in aircraft during taxable years ending after June 30, 1970, and beginning before July 1, 1980, and attributable to use after June 30, 1970, and before July 1, 1980. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the credits allowed.

[(g) HIGHWAY TRUST FUND AMENDMENT.—Subsection (c) of section 209 of the Highway Revenue Act of 1956 (12 U.S.C., sec. 120 note) is amended by adding at the end thereof the following new paragraph:

["(5) ADJUSTMENTS FOR AVIATION USES.—The amounts described in paragraphs (1)(A) and (3)(A) with respect to any period shall (before the application of this subsection) be reduced by appropriate amounts to reflect any amounts transferred to the Airport and Airway Trust Fund under section 208(b) of the Airport and Airway Revenue Act of 1970 with respect to such period. The amounts described in paragraphs (1)(E) and (3)(C) with respect to any period shall (before the application of this subsection) be reduced by appropriate amounts to reflect any amounts transferred to the Airport and Airway Trust Fund under section 208(b)(3) of the Airport and Airway Revenue Act of 1970 with respect to such period."]

VI. ADDITIONAL VIEWS OF THE HONORABLE HAROLD FORD

H.R. 4800 as reported by the Committee on Ways and Means sets the ticket tax at 5 percent and the waybill tax at 5 percent. Prior to October 1, 1980, the ticket tax was 8 percent and the waybill tax was 5 percent. There was a differential of 3 percent between the two taxes. I believe that this differential should be retained and that the waybill tax should be set at 2 percent.

There is no question that the users of our airport and airways system should finance its operation. A 2 percent waybill tax would assure that cargo carriers are contributing their fair share to the financing of the system. They place a minimal burden on the system and one that would be easily paid for with a 2 percent tax. H.R. 4800 lowers the tax on the transportation of people. A similar reduction is in order for the tax on the transportation of property.

HAROLD FORD.

VII. ADDITIONAL VIEWS OF THE HONORABLE CEC HEFTEL

During consideration of the Airport and Airway Revenue Act of 1981, the Ways and Means Committee voted to ensure the continuation of the existing exemption from the air passenger ticket tax for the "over-water" portion of commercial flights to and from the states of Hawaii and Alaska, which has been in effect for some 26 years. This exemption was first established in 1956 when Congress first enacted the air passenger ticket tax and has existed ever since in recognition of the unique geographic situation of these two states. The reasons for establishing this longstanding exemption are just as relevant and valid today.

Under current law, the over-water exemption from the air passenger ticket tax applies to flights to and from Puerto Rico and the Virgin Islands, as well as to and from Hawaii and Alaska. Thus, the existing exemption should be retained to avoid the inequitable treatment of air flights to and from Alaska and Hawaii.

The distance from Hawaii and Alaska to the mainland of the United States renders residents of these two states totally dependent upon air transportation to conduct commercial activities and personal business wih the mainland. In addition, increased air fares would have a chilling effect on tourism, Hawaii's main industry, at a time when Hawaii's economy is already suffering from a drop in the world price of sugar, serious challenges from lower priced imports of agricultural products, and from the current recession.

However, it would be a mistake to characterize this exemption as a subsidy or special tax break for tourists, wealthy or otherwise. Island residents who do business with the continental United States constitute a substantial portion of the annual travel between the mainland and Hawaii. Transportation between the mainland and Hawaii and Alaska is already exceptionally expensive, and an additional tax would thus only serve to further isolate these two states from the continental United States.

Flights over water to and from Hawaii and Alaska do not utilize the ground safety and support systems that are funded by the revenues collected from the air passenger ticket tax. Although such flights do take off from and land at domestic airports, the ticket tax does apply to all portions of the flights that occur over land and up until the plane leaves and after it re-enters the territorial limits of the United States.

Elimination of the exemption would encourage the diversion of air passenger traffic to foreign flag carriers. For example, passengers from Seattle, Washington, to Hawaii would be subject to the air passenger ticket tax if the existing exemption is repealed. However, passengers from just across the border in Vancouver, British Columbia, would not be subject to such a tax.

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Finally, during Committee consideration of H.R. 4800, the Joint Tax Committee submitted an erroneous revenue estimate of the cost of retaining the existing over-water exemption. The continuation of the existing exemption has the effect of automatically reinstating the international departure tax for flights to and from Hawaii and Alaska in lieu of any tax on the over-water portion of such flights. Therefore, the actual revenue impact of this exemption is less than half of Joint Committee's original estimate.

The longstanding exemption for the over-water portion of air passenger flights to Hawaii and Alaska clearly should be retained. This exemption provides a small but meaningful aid in reducing the isolation and the miles between these two states and the mainland United States.

VIII. ADDITIONAL VIEWS OF HON. W. HENSON MOORE, BILL FRENZEL, JOHN DUNCAN, BILL ARCHER, L. A. (SKIP) BAFALIS AND PHILIP M. CRANE

The problems that have plagued the operations of the Airway Trust Fund since its inception in 1970 are sure to continue with the provisions contained in H.R. 4800 as reported out by the Committee. The Bill will result in an unneeded balance of over two billion dollars in the Trust Fund at the end of fiscal year 1983.

The Airway Trust Fund was established to provide for safety features in the air transportation system and for capital construction to accommodate the new generation of jet aircraft and avionics. Despite many inadequacies, the Trust Fund has successfully financed improvements that have resulted in the most efficient and safest airway system in the world.

However, while safety features have been installed at the major hubs supporting the major air routes throughout the country, many hundreds of smaller airports still have seriously needed projects which will enhance the safety of air travellers using those facilities.

It has become quite obvious over the years that excessively high Trust Fund balances have created a situation which actually rewards the government for not making safety-related aviation improvements. Successive administrations have been unable to resist the temptation of allowing large surpluses to accumulate within the Trust Fund so that under the unified budget these surpluses would reduce the amount of the deficit in the National Budget. The Trust Fund balance exceeded $5 billion in recent year due to this practice. It is wrong to tax air transportation users for safety, and then not spend the funds raised for that purpose.

Additionally, since the expiration of the Trust Fund at the end of fiscal year 1980, expenditures have still been charged to the Trust Fund, while airway ticket tax taxes have been deposited in the general treasury. This would seem to have the effect of expenditures being made from monies collected from former passengers, while current users of the system are paying an extra tax into the general revenues of the nation to support its general activities.

Another difficulty with a large surplus in the Trust Fund is that it becomes a target of any special interest group with a special project, as evidenced by the attempt in 1980 to use over two billion dollars of Trust Fund monies to replace the commercial air fleet under the pretext of reducing air noise pollution; the attempt to finance access highways etc., in or near metropolitan airports with Trust Fund monies, under the guise of passenger convenience; and the effort to allow Trust Fund monies to be used for new terminal construction to the disadvantage of safety features needed by many of the smaller air terminals throughout the country.

H. R. 4800 also disregards elements that have been quite controversial in the assessing of costs to the users of the system. Traditionally,

a differential existed between the rate of tax on air passengers and on air freight. H.R. 4800 ignores this difference and assesses both commodities at a 5 percent rate of tax, a 40 percent increase on air freight despite an approximately 37.5 percent decrease in the air passenger ticket tax, reducing it from 8 percent to 5 percent.

Also, the non-commercial aviation community traditionally has paid a 7¢-a-gallon tax on its fuel, whether gasoline or jet fuel. Additionally, despite evidence that the jet fuel portion of the general aviation community users the air traffic system far in excess of the gasoline-powered users, they are taxed at the same rate in H.R. 4800.

Probably the most glaring deficiency in H.R. 4800 is failure to adopt the amendment which would have discontinued or "sunsetted" all of those taxes at the expiration of the bill. When the Trust Fund program expired at the end of fiscal year 1980, the passenger ticket tax reverted from an 8 percent tax to a 5 percent tax, with the revenues going into the general treasury rather than into the Trust Fund. This situation has allowed successive Administrations to find it expedient to seek higher taxes to produce higher surpluses in the Trust Fund for the obvious purpose of improving the deficit position in the general fund. We believe that this is a violation of the original intent for which these taxes are levied. When the authorization ends, the tax to pay for them should end. This would prevent the current situation and force congressional oversight.

The amendments offered during the Committee mark-up session would have fully funded the authorization levels called for in H.R. 2643, including the extra 450 million dollars which our Committee has been assured will be added to the authorizations by amendments by the Public Works Committee. Even with these higher expenditures the amendments offered in Committee of a 4.5 percent ticket tax, an 8¢-per-gallon general aviation fuel tax, a 2.5 percent air freight waybill tax and a $5 international departure tax would have more than adequately funded these authorizations with a very comfortable balance in the Trust Fund at the end of fiscal year 1983 in excess of $1.6 billion. We should also note that funding the authorization level is most generous as the history of the fund shows the appropriations never reach the authorization levels. The tax rates included H.R. 4800, as unamended, as estimated, will produce a surplus in excess of $2 billion at end of fiscal year 1983.

While these figures may not seem too far out of balance, the ignoring of traditional differences in tax rates within the airway community is sure to cause considerable controversy and difficulty. The amendments offered were supported at the time by all portions of the aviation industry, passenger carriers, cargo carriers, private pilots and business aviation. A fracturing of this support is bound to occur.

We wish to point out that if higher expenditure levels are authorized in the future, as expected, then we will support funding reasonable authorizations as approved by the Committees with that jurisdiction for the long-term airways safety plan as described by the FAA.

W. HENSON MOORE.
BILL FRENZEL.
BILL ARCHER.
JOHN DUNCAN.
L. A. (SKIP) BAFALIS.
PHILIP M. CRANE.

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IX. SEPARATE VIEWS OF HON. BILL FRENZEL

H.R. 4800 contains a special tax break for tourists flying to Alaska and Hawaii. Under the bill, any individual flying to these two states is treated as if he or she were flying to a foreign country, not to the 49th and 50th states of our Union. When their planes leave the West Coast, these passengers pay the international departure tax, not the domestic ticket tax.

This special interest tax benefit will cost the Treasury from $40 to $150 million each year. It is a subsidy from passengers who pay the regular ticket tax, to the more affluent passengers who can afford to fly to Hawaii or Alaska.

Proponents of the Hawaii/Alaska exemption argue that the flight is mostly over water, and that they are therefore precluded from taking advantage of any emergency facilities the other domestic flights have available to them. However, air traffic control facilities are still required to track flights to and from Hawaii and Alaska, and the Coast Guard maintains ships ready to assist in any rescue that may be required. A few years ago, prompt Coast Guard action saved the lives of all of the passengers on a downed commercial aircraft off the coast of Alaska.

In addition, this argument holds even less water when the flight paths of flights to Hawaii and Alaska are compared to other domestic flights. Many flights from the Southwest to Florida travel significant distances over water, as do most flights from Washington to the Northeast, or from the Northeast to Florida. Yet passengers on these flights aren't given any special discount on their ticket tax for the over water portion of their flight.

Alaska and Hawaii are a part of the United States. They are not international destinations. It makes no sense to provide a "vacationer's tax break" to Hawaii's tourists while soaking tourists to other states. This special interest exemption in H.R. 4800 should be eliminated.

BILL FRENZEL.

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